

CLAY COUNTY BOARD OF COMMISSIONERS

Tuesday, May 21, 2013

9:00 a.m.

County Board Room – 3rd Floor – Courthouse

M I N U T E S

The Clay County Board of Commissioners met in regular session with Commissioners Campbell, Evert, Gross and Ingersoll present. Commissioner Weyland was absent to attend an FM Diversion funding meeting with legislators in Washington, D.C. County Administrator Brian C. Berg, Chief Assistant County Attorney Jenny Samarzja, and Senior Administrative Assistant Vicki Reek were also present.

APPROVAL OF AGENDA

On motion by Campbell, seconded by Gross, and unanimously carried, the agenda was approved as presented.

AUTHORIZATION TO EXECUTE CONTRACT RENEWAL DOCUMENT WITH LUTHERAN
SOCIAL SERVICES OF MINNESOTA FOR FAMILY ASSESSMENT SERVICES

By consent agenda, the Board authorized execution of a renewal contract with Lutheran Social Services of MN for Family Assessment services at the Juvenile Center for 2013 with an increase from \$70.30/hour to \$71.00/hour. Based on last year's usage, the total increase would be about \$60.90 for the entire year.

APPROVAL OF COUNTY ABATEMENT REQUESTS

By consent agenda, the Board approved County abatement requests for Daniel J. Murphy, parcels 08.023.1000 and 30.024.4000 (total \$2962), as they should have received agricultural homestead assessment for payable 2013.

APPROVAL OF 3.2 LIQUOR LICENSE FOR CITY OF BARNESVILLE D/B/A WILLOW CREEK
MUNICIPAL GOLF COURSE

By consent agenda, the Board approved renewal of the 3.2 Liquor License for the City of Barnesville d/b/a Willow Creek Municipal Golf Course.

CITIZENS TO BE HEARD

There were no citizens present who wished to address the Board.

APPROVAL OF MINUTES

On motion by Evert, seconded by Campbell, and unanimously carried, the minutes of the May 7 & 14, 2013 County Board minutes were approved as presented.

ESTABLISH 2014 BUDGET PROCESS TIMELINE

County Administrator Brian Berg and County Auditor-Treasurer Lori Johnson were present to discuss the 2014 budget process timeline:

- * Budget sheets provided to Departments by Auditor's Office – June 3
- * Deadline to return budget requests to Auditor's Office – June 24

- * Budget compiled and forwarded to County Administrator – July 12
- * Presentation to County Board. Review of budget with individual departments, if necessary – July/August
- * Set Preliminary Levy – By September 15 (Due to Commissioner Evert's expected absence in September, the Board will consider setting the Preliminary Levy on September 3rd.)
- * Public Meeting re: Budget Information – First Week in December
- * Adopt Final Levy and Year 2014 Budget – December 17 or 24

Mr. Berg highlighted county impacts of the recently completed Legislative Session: a 24% increase in new annual County Program Aid funding; counties will receive state sales tax exemptions; one year levy limit is imposed; increase in Payment In Lieu of Taxes; Homeowner and Renter tax relief, Statewide Health Improvement Program will be funded into the future; etc.

Mr. Berg reminded the Board that the union contracts have a 2% cost of living adjustment included for 2014.

APPROVAL OF STATE OF MN SENTENCING TO SERVICE CONTRACT

MN Department of Corrections Supervisor Mike Stoltman was present to seek approval of the contract with the State of Minnesota for the Sentencing To Service program for the period 7/1/13 to 6/30/15. He noted that the proposed contract includes a 1.1% increase.

On motion by Campbell, seconded by Evert, and unanimously carried, the Board approved execution of contract #61512 with the State of MN, Department of Corrections, for the Sentencing To Service program as described above.

PUBLIC HEARING: PROPOSED ESTABLISHMENT OF CLAY COUNTY ECONOMIC DEVELOPMENT AUTHORITY

On motion by Gross, seconded by Campbell, and unanimously carried, the Public Hearing concerning establishment of a Clay County Economic Development Authority was opened.

Planning & Environmental Programs Director Tim Magnusson recapped the activities over the last few months that have led to the request before the Board today to establish the Clay County Economic Development Authority: a Recommending Committee met several times to recommend an organizational option for a county economic development service provider; identified levels of economic development and gaps in programs and services; identified levels of housing and community development programs and services; and reviewed the capacity and ability of the Clay County Housing & Redevelopment Authority to expand its services. The Committee subsequently recommended the option of the development of a Clay County Economic Development Authority. The Clay County EDA will be comprised of the Clay County Commission members.

Mr. Magnusson indicated that the intent of the Clay County EDA will be for rural development and provide opportunities for businesses that may not fit in a city. Townships and Cities must 'opt in' to the program in order for the County to exercise Economic Development Authority/Tax Increment Financing in their geographical area. Once cities and townships opt in to the program, they are obligated for a five year period.

Ms. Karen Lauer, Barnesville Economic Development Director, was appreciative for the Board's consideration of this additional economic development tool, which will be significant in attracting business to Clay County. She felt this proactive action will allow for a quick response to requests for assistance.

With respect to cities which have extra territorial jurisdiction, their control applies only to subdivisions.

Commissioner Campbell expressed his appreciation to the Recommending Committee for their serious attention to this important task. He reiterated that Clay County does not want to compete with cities which have their own EDA's, but merely add another development tool for the betterment of Clay County.

Chair Ingersoll called for comments from the audience and none were forthcoming.

On motion by Gross, seconded by Evert, and unanimously carried, the Public Hearing was closed.

**ADOPT ENABLING RESOLUTION ESTABLISHING THE CLAY COUNTY ECONOMIC
DEVELOPMENT AUTHORITY**

On motion by Evert, seconded by Gross, and unanimously carried, the following resolution was adopted establishing the Clay County Economic Development Authority:

**Resolution 2013-30
ENABLING RESOLUTION ESTABLISHING THE
CLAY COUNTY ECONOMIC DEVELOPMENT AUTHORITY**

WHEREAS, Clay County does not currently have authority to offer a Tax Increment Financing option within the existing structure of the Clay County Business Subsidy Program; and

WHEREAS, Current levels of economic development in Clay County could possibly be hampered because of the absence of a Tax Increment Financing option in Clay County; and

WHEREAS, Minnesota Statutes, Chapter 469 provides a mechanism for counties to create a county economic development authority to implement a Tax Increment Financing option; and

WHEREAS, on January 8, 2013 by Resolution 2013-5, the Clay County Board created a local Recommending Committee pursuant to Minnesota Statute § 469.1082. The Recommending Committee was tasked with the responsibility of examining options available to promote the County's economic development and report back to the Clay County Board of Commissioners. The report was to include: 1) identification of the current level of economic development housing, and community development programs and services provided by existing agencies, any existing gaps in programs and services and the capacity and ability of those agencies to expand their activities; and 2) a recommended organizational option for providing needed economic development, housing, and community development services in the most efficient, effective manner; and

WHEREAS, Notice was given to all local government units and development agencies within Clay County and the Recommending Committee was formed with membership as required by statute; and

WHEREAS, the Recommending Committee held several meetings to consider the options available and Recommending Committee chairman, Jerry Waller, reported back to the Clay County Board of Commissioners on April 23, 2013. The Recommending Committee's report complied with the statutory requirements. The final recommendation of the committee was for the establishment of a county economic development authority to operate under Minnesota Statutes, Chapter 469. Further, the Recommending Committee endorsed the "opt-in" provision in Minnesota Statutes and recommended setting a zero distance from a city boundary as the area of operation for the Clay County Economic Development Authority; and

WHEREAS, the intent of the Clay County Economic Development Authority is to provide opportunities for rural business that would not fit within city limits. The intent is not to compete with cities for economic development; and

WHEREAS, the Clay County Board of Commissioners supports economic development for rural business within Clay County;

NOW THEREFORE, BE IT RESOLVED, that the Clay County Board of Commissioners establishes the Clay County Economic Development Authority with the powers of an economic development authority pursuant to Minnesota Statutes §§ 469.090 to 469.108; and

BE IT FURTHER RESOLVED, that the areas subject to the Clay County Economic Development Authority shall be limited to those cities or townships that opt-in by separate resolution. The distance from the boundary of a city or township opting in to the Clay County Economic Development Authority will be zero; and

BE IT FURTHER RESOLVED, that the Clay County Economic Development Authority shall be a five member authority, with the Clay County Board of Commissioners serving as the Commissioners of the Clay County Economic Development Authority; and

BE IT FURTHER RESOLVED, that all official action of the Clay County Economic Development Authority shall be consistent with the Clay County Comprehensive Plan and any official controls implementing the comprehensive plan; and

BE IT FURTHER RESOLVED, that within 60 days of the anniversary date of the adoption of this resolution, the Clay County Economic Development Authority shall submit to the Clay County Board of Commissioners a report stating whether and how this enabling resolution shall be modified, as required by Minnesota Statutes § 469.092, Subd. 3.

APPROVAL OF CLAY COUNTY BUSINESS SUBSIDY POLICY

Planning & Environmental Programs Director Tim Magnusson requested the Board's approval of an amendment to the Clay County Business Subsidy Policy to allow for the inclusion of verbiage concerning the availability of Tax Increment Financing, which is now possible via the Clay County Economic Development Authority. Additional subsidy options are also available, such as Tax Abatement and other business subsidies. The Business Subsidy Policy (See Attachment "A") defines the purpose, objectives, general policies, guidelines for commercial/industrial business subsidies, agreements and reporting requirements, as well as an explanation of the 'process' and the application.

Commissioner Campbell suggested a budget line be created for EDA incidentals and administrative expenses. Mr. Magnusson noted that applicants pay a fee in connection with their Business Subsidy request, which is used to cover upfront costs. If additional amounts are required to reimburse the County for its costs, the applicant shall be responsible for those costs. If there is an unused portion of the application fee, the County will reimburse the applicant for any unused funds.

On motion by Evert, seconded by Campbell, and unanimously carried, the Board approved the amended Business Subsidy Policy as included in Attachment "A".

APPROVAL TO PAY BILLS AND VOUCHERS

On motion by Campbell, seconded by Gross, and unanimously carried, the bills and vouchers were approved for payment.

COMMITTEE REPORTS/COUNTY ADMINISTRATOR UPDATE

Commissioner Gross attended meetings of the Ulen City Council, Spring Prairie Township, FM Council of Governments, and Agassiz Recreational Trails.

Commissioner Evert attended meetings of The Lost & Found Ministry, Historical & Cultural Society, AMC Executive Committee, Red River Basin Commission, Lakeland Mental Health, and a meeting with Buffalo-Red River Watershed District Administrator Bruce Albright.

Commissioner Ingersoll attended a meeting of the Lake Agassiz Regional Library.

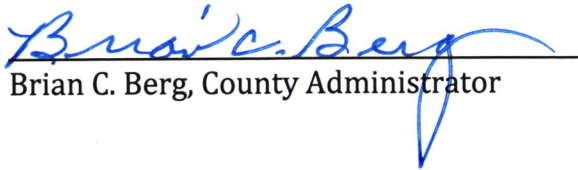
County Administrator updated the Board concerning lease issues in the Family Service Center, FM Diversion, Recorder's Compliance Committee, a meeting with an Economic Development consultant regarding the regional corridor, Extension, and personnel evaluations.

ADJOURN

The meeting adjourned at 10:08 a.m.



Wayne Ingersoll, Chair
Clay County Board of Commissioners



Brian C. Berg, County Administrator

Clay County, Minnesota Business Subsidy Policy

Amended 5/21/13

I. Purpose

The purpose of this policy is to establish guidelines and criteria regarding the business subsidies, such as tax increment financing (TIF), tax abatement, and other business subsidies for private development projects within Clay County, but outside of other local municipality governance. This policy shall be in addition to the requirements and limitations set forth by the provisions of Minnesota State Statute 116J.993 (MN Business Subsidy Law), and by the County's policy and guidelines of the particular form of subsidy.

These guidelines shall be used in processing and reviewing applications requesting business subsidies assistance. The fundamental purpose of business subsidies in the County is to encourage desirable development or redevelopment that would not otherwise occur "but for" the assistance provided through business subsidies.

It is the intent of the County to provide business subsidies, as well as other incentives that the County may deem appropriate, at the shortest term required for the project to proceed. The County reserves the right to approve or reject projects on a case-by-case basis, taking into account established policies, specific project criteria, and demand on county services in relation to the potential benefits to be received from a proposed project. Meeting policy guidelines or other criteria does not guarantee the award of business subsidies. Furthermore, the approval or denial of one project is not intended to set precedent for approval or denial of another project. Whenever possible it is the County's intent to coordinate the use of business subsidies with other applicable taxing jurisdictions.

II. Definition of "Business Subsidy"

Business Subsidy is financial assistance having a value in excess of \$150,000 and defined in the Minnesota Statute 116J.993 as:

"Business subsidy" or "subsidy" means a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business.

Business Subsidies to be considered by Clay County include:

- Tax Increment Financing (TIF)
- Tax Abatement
- Clay County Revolving Loan Fund

III. Public Purpose Objectives of Business Subsidies

In accordance with the MN Business Subsidy Law, the County will consider using business subsidies to assist private development projects to achieve one or more of the following public purpose objectives:

- To retain local jobs and/or increase the number and diversity of jobs that offer stable employment and/or attractive wages and benefits. Applicant must prove that potential job loss is specific and demonstrable.
- To enhance and diversify Clay County's tax base.
- To encourage additional unsubsidized private development in the area, either directly or indirectly through "spin off" development.
- To achieve development on sites which would not be developed without business subsidy assistance.
- To remove blight and/or encourage development of commercial and industrial areas in the County that result in higher quality development or redevelopment and private investment.
- To offset increased costs of development of specific properties when the unique physical characteristics of the site may otherwise preclude private investment.

IV. General Policies for the Use of Business Subsidies

- A. Business subsidy assistance will be provided from the County, by a "pay-as-you-go" method, to the developer if the business subsidy is tax increment financing or tax abatement.
- B. A developer requesting business subsidy assistance must demonstrate, to the satisfaction of the County, sufficient cash equity investment in the project as required within the County's policy for the particular form of subsidy.
- C. Business subsidy will not be provided in circumstances where land and/or property price is demonstrated by the County Assessor to be in excess of fair market value. This would normally be where the acquisition price is more than 10% in excess of market value, but the County has the right to use discretion in determining value and the overall project impacts/benefits will be considered.
- D. A developer must be able to demonstrate to the County, or, if applicable, to the underwriting agency, a market-demand for a proposed project. Such market demand demonstration can consist of market studies supporting the development proposal, pre-leasing or leasing commitments for at least 50% of the proposed project, other forms of research/study that documents the need, or other evidence that may be acceptable to the County.
- E. Business subsidy will not be used in cases where the subsidy would create an unfair and significant competitive advantage over other similar projects in the area.
- F. Business subsidy will not be used for projects that would place extraordinary demands on public infrastructure and services.

- G. If requested by the County, the developer shall provide adequate financial guarantees to ensure completion of the project, including, but not limited to: assessment agreements, letters of credit, cash escrows, and personal guaranties.
- H. Each developer must be able to demonstrate to the County's satisfaction, an ability to construct, operate, and maintain the proposed project based on past experience, general reputation, and credit history.
- I. If requested by the County, or its consultants, the developer shall provide sufficient financial, environmental, or other data relative to the successful operation of the project.
- J. Projects receiving business subsidy approval from other affected taxing jurisdictions will be more favorably received by the County.

V. Guidelines for Commercial/Industrial Business Subsidies

- A. Business subsidies will not be used for on-site retail or service businesses unless it is a redevelopment project that demonstrates that it will result in a substantial increase in tax base and a significant improvement in quality development, a reduction of blight, and/or an increase in employment.
- B. The project must be consistent with the applicable Comprehensive Plan, Land Use Plan, and Zoning Ordinances within Clay County. If the project is not consistent, the applicant must first obtain approval from the County of any required zoning or comprehensive plan amendments, changes, variances, etc. If the developer is successful in gaining approvals, then the developer may be eligible to receive a business subsidy from the county.
- C. Business retention jobs will be considered on a one-for-one match to job creation only in cases where job loss is specific and demonstrable in accordance with the MN Business Subsidy Law.
- D. Specific wage and job goals will be determined by the County giving consideration to the particular form of the subsidy, nature of the development, the purpose of the subsidy, local economic conditions and similar factors. The recipient will have up to two years to meet the job and wage goals established by the County. The minimum wage for a job to be considered a new or retained job shall be 150% of the current Minnesota minimum wage rate. Deviations less than the wage floor will be considered on a case-by-case basis and in accordance with the requirements of the MN Business Subsidy Law.
- E. Business subsidies will not be used for commercial/industrial projects that have a history of inconsistent compliance with applicable environmental rules and regulations.

VI. Subsidy Agreement and Reporting Requirements

Each company receiving a business subsidy shall be subject to a business subsidy agreement with the County as well as the State of Minnesota and reporting provisions and requirements set forth by the MN Business Subsidy Law and summarized below:

A. Progress Reports

The recipient shall file a report annually for two years after receiving the subsidy or until all goals set forth in the subsidy agreement have been met, whichever is later. Reports shall be completed using the format drafted by the State of Minnesota and shall be filed with the County no later than March 1 of each year for the progress made the previous year.

B. Maintain Facility

The recipient agrees to maintain and operate its facility at the site where the subsidy is used for a period of five years after the date the subsidy is provided.

C. Failure to Comply

Businesses failing to comply with the subsidy agreement will be subject to fines and repayment requirements, and will be deemed ineligible by the State to receive any loans or grants from public entities for a period of five years.

VII. Subsidy Application Process and Procedure

- A. Application for business subsidies shall be made on forms provided by the County. A fee of \$1,000 shall accompany any Tax Abatement or grant request to cover the County's legal, administrative, and planning costs. The fee for Tax Increment Financing subsidy shall be \$10,000. If additional amounts are required to reimburse the County for its costs, the applicant shall be responsible for those costs. If there is an unused portion of the fee, the County will reimburse the applicant for any unused costs at its discretion. The County reserves the right to amend its TIF fees annually as part of the official Fee Schedule.

Following a review by appropriate County Staff, the application shall be referred to Clay County Commission for further action.

- B. The application for business subsidies shall request information required within the County's policies on the particular form of subsidy including but not limited to: a detailed description of the project; a preliminary site plan; the amount of business subsidy requested; the public purpose of the project; the number and types of jobs to be created; the wages and benefits to be paid new employees; and verifiable funding sources and uses.

Clay County Business Subsidy Process

Tax Increment Financing

Project Location Identified

Apply for Zoning & Land Use Permits through Planning & Zoning Department. Planning Department will notify cities within the two-mile extraterritorial zone, townships & landowners within ½ mile radius of project site.

Complete Clay County Business Assistance Application

Tax Increment Financing (TIF) application and fee (\$10,000) sent to Clay County Planning & Zoning Office

Clay County's consultant conducts "But For" feasibility

Applicant and Planning Representative present application and consultant's findings to Clay County Economic Development Authority (EDA)

Clay County EDA calls for public hearing on establishment of TIF District

Clay County's consultant prepares TIF plan

Development Agreement is prepared by external legal counsel

Fiscal/Economic implications are provided to School District and Township by Clay County's consultant

Clay County Planning Commission reviews TIF plan to determine compliance with County's Comprehensive Plan

Clay County EDA and Clay County Commission hold joint public hearing on establishment of project

Clay County EDA Board adopts resolution of TIF District

Clay County Commission adopts resolution of TIF District

Tax Abatement

Project Location Identified

Apply for Zoning & Land Use Permits through Planning & Zoning Department, if necessary

Complete Clay County Business Assistance Application

Tax Abatement Application & Fee (\$1,000) sent to Clay County Planning & Zoning Office

Clay County's consultant conducts "But For" feasibility

Applicant and economic development organization present findings to Clay County Commission

Clay County Commission calls for public hearing

Public hearing is held

Clay County Commission approves resolution which approves the tax abatement

Development Agreement is prepared by external legal counsel

Amended 5/21/13

Clay County Business Assistance Application

Amended 5/21/13

Name of Corporation/Partnership: _____

Address: _____

Primary Contact: _____

Phone: _____ Fax: _____ Email: _____

Type of Business Assistance Requested:

☐ Tax Abatement

☐ Tax Increment Financing

Please provide a brief description of company's business, including history, principal product or service, etc.:

Please list names of officers and shareholders with more than 5 percent (5%) interest in the company:

Please provide a brief description of the proposed project:

Address: _____

Parcel Number: _____

Legal Description: _____

What is the current zoning of the proposed site? _____

Will a conditional use permit, variance or any other special use requirement be needed to complete this project? _____

Legal Counsel: Name _____
 Company _____
 Phone _____

Contractor: Name _____
 Company _____
 Phone _____

Sources and Uses of Funds:

Sources	
Bank:	\$
Equity:	\$
Other:	\$
Other:	\$
TOTAL	\$
Uses	
Land	\$
Demolition	\$
Site Development	\$
Building Costs	\$
Equipment Acquisition & Installation	\$
Architectural & Engineering Fees	\$
Legals Fees	\$
Other:	\$
Other:	\$
TOTAL	\$

Anticipated construction period for this project:

Start Date _____

Finish Date _____

Employment & Wage Information

What is the present employment of applicant _____ FTE _____ PTE

What is the projected employment after the project is completed?

One Year after completion _____ FTE _____ PTE

Two Years after completion _____ FTE _____ PTE

Please list the employment information for the project new employees:

Position Title	Quantity	Wage or Wage Range

Public Purpose Objectives

Please check the appropriate objectives:

___ Retain local jobs and/or increase the number and diversity of jobs that offer stable employment and/or attractive wages and benefits.

___ Enhance and/or diversify Clay County's tax base.

___ Encourage additional unsubsidized private development in the area, either directly or indirectly through "spin off" development

___ Achieve development on sites which would not be developed without business subsidy assistance.

___ Remove blight and/or encourage development of commercial and industrial areas in the County that result in higher quality development or redevelopment and private investment.

___ Offset increased costs of development of specific properties when the unique physical characteristics of the site may otherwise preclude private investment.

Application Acknowledgement

The undersigned, a duly authorized representative of the Applicant, hereby certifies that the foregoing information is true, correct and complete as of the date hereof.

Date: _____

Signature: _____

Printed Name and Title: _____

Application Checklist

- ☐ Fee: \$1,000 - Tax Abatement; or \$10,000 - Tax Increment Financing
- ☐ Project Site Documents
- ☐ All other supporting documents